

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

JAMES R. MARRIOTT,

Plaintiff,

v.

Case No. 04-C-0945

**OPES GROUP, MULTI-NATIONAL
STRATEGIES, STEVE PARKER,
JOHN RABY, JAMES LANDIS,
and MICHAEL SCHWARTZ,**

Defendants.

DECISION AND ORDER

On January 30, 2006, this Court issued an order granting the Defendants' motion to stay proceedings in the above-captioned action pending an appeal of this Court's denial of a motion to compel arbitration. The Defendants' motion to stay was filed on January 19, 2006. The Plaintiff's period of time for responding was eight days—five days as set forth in Civil Local Rule 7.4 plus the additional three days prescribed by Rule 6(e) of the Federal Rules of Civil Procedure. Insofar as the total period of time for responding was less than 11 days, the Court was obligated to exclude Saturdays and Sundays when calculating the response deadline. *See* Fed. R. Civ. P. 6(a). Thus, the Plaintiff's response was due no later than January 31, 2006.

On January 30, 2006, the Court granted the motion to stay, based on the understanding that it was unopposed. Such was not the case. Now, the Plaintiff, wishing to respond to the motion to stay, asks the Court to reconsider its decision since the Court's order issued before the motion's briefing schedule had closed. The Plaintiff is correct. The Court's decision issued prematurely. Since the entry of that order, the Plaintiff has filed a timely response, which the Court will now consider.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

Marriott's Rule 7.4 Expedited Non-Dispositive Motion for Reconsideration (Docket No. 129) is **GRANTED**.

The Court's Order of January 30, 2006 granting the motion to stay is **VACATED**.

Dated at Milwaukee, Wisconsin this 1st day of February, 2006.

BY THE COURT

s/ Rudolph T. Randa
Hon. Rudolph T. Randa
Chief Judge